

Edward Livingston, March 27, 1815, from Correspondence of Andrew Jackson. Edited by John Spencer Bassett.

OPINION OF EDWARD LIVINGSTON ON MARTIAL LAW.

New Orleans, March 27, 1815.

On the Nature and Effect of the proclamation of Martial Law by Major Genl Jackson. my Opinion is that, such proclamation is unknown either to Constitution or Laws of the U. S.

1st That it is to be justified only by the necissity of the Case and that therefore the General proclaims it at his risque and under his responsibility. both to the government and to indivuals. Where the necesstety is apparent he will meet reward instead of punishment from, his Government. and individual clames for Damages must be appreciated by the same rule under the Discretion of a jury. Should they in the opinion of the Government Decide falsely agt. their Officer they have a right which they have frequently exercised of indemnifying him for the Disinterested responsibility he has incurred.

2d That the Effect of a proclamation of martial Law De facto is to bring all persons who may happen to be within the District Comprised in the proclamation; under the provision of such law. and therefore all persons capable of Defending the Country within the District are subject to such law by Virtue of the proclamation and may be tried During its continuance by Virtue thereof